

The Senate Judiciary Committee offered the following substitute to SB 31:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 15-6-2 of the Official Code of Georgia Annotated, relating to the number of judges of superior court, so as to provide for a fourth judge of the superior courts of the Cherokee Judicial Circuit, a third judge of the superior courts of the Flint Judicial Circuit, a ninth judge of the superior courts of the Gwinnett Judicial Circuit, and a fifth judge of the superior courts of the Southern Judicial Circuit; to provide for the appointment of such additional judges by the Governor; to provide for the election of successors to the judges initially appointed; to prescribe the powers of such judges; to prescribe the compensation, salary, and expense allowance of such judges to be paid by the State of Georgia and the counties comprising said circuits; to authorize the judges of such circuits to divide and allocate the work and duties thereof; to provide for the manner of impaneling jurors; to provide for an additional court reporter for such circuits; to authorize the governing authority of the counties that comprise such circuits to provide facilities, office space, supplies, equipment, and personnel for such judges; to declare inherent authority; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Part I
SECTION 1-1.

Code Section 15-6-2 of the Official Code of Georgia Annotated, relating to the number of judges of superior courts, is amended by striking paragraphs (9), (18), (20), and (35) and inserting their place new paragraphs to read as follows:

| | |
|------------------------|------|
| "(9) Cherokee Circuit | 3 4" |
| "(18) Flint Circuit | 2 3" |
| "(20) Gwinnett Circuit | 8 9" |
| "(35) Southern Circuit | 4 5" |

Part II**SECTION 2-1.**

One additional judge of the superior courts is added to the Cherokee Judicial Circuit, thereby increasing to four the number of judges of said circuit.

SECTION 2-2.

Said additional judge shall be appointed by the Governor for a term beginning July 1, 2005, and continuing through December 31, 2006, and until a successor is elected and qualified. A successor shall be elected in the manner provided by law for the election of judges of the superior courts of this state at the nonpartisan judicial election in 2006, for a term of four years beginning on January 1, 2007, and until a successor is elected and qualified. Future successors shall be elected at the nonpartisan judicial election each four years after such election for terms of four years and until their successors are elected and qualified. They shall take office on the first day of January following the date of the election.

SECTION 2-3.

The additional judge of the superior courts of the Cherokee Judicial Circuit of Georgia shall have and may exercise all powers, duties, dignity, jurisdiction, privileges, and immunities of the present judges of the superior courts of this state. Any of the judges of the Cherokee Judicial Circuit may preside over any cause, whether in their own or in other circuits, and perform any official act as judge thereof, including sitting on appellate courts as provided by law.

SECTION 2-4.

The qualifications of such additional judge and his or her successors shall be the same as are now provided by law for all other superior court judges and his or her compensation, salary, and expense allowance from the State of Georgia and from the counties comprising the Cherokee Judicial Circuit shall be the same as are now provided by law for the other superior court judges of such circuit. The provisions, if any, enacted for the supplementation by the counties of such circuit of the salary of the judges of the superior courts of the Cherokee Judicial Circuit shall also be applicable to the additional judge provided for by this Act.

SECTION 2-5.

All writs and processes in the superior courts of the Cherokee Judicial Circuit shall be returnable to the terms of such superior courts as they are now fixed and provided by law, or as they may hereafter be fixed or determined by law, and all terms of such courts shall be

1 held in the same manner as though there were but one judge, it being the intent and purpose
2 of this Act to provide four judges equal in jurisdiction and authority to attend and perform
3 the functions, powers, and duties of the judges of such superior courts and to direct and
4 conduct all hearings and trials in such courts.

5 **SECTION 2-6.**

6 Upon and after qualification of the additional judge of the superior court of the Cherokee
7 Judicial Circuit, the four judges of such circuit may adopt, promulgate, amend, and enforce
8 such rules of practice and procedure in consonance with the Constitution and laws of the
9 State of Georgia as they deem suitable and proper for the effective transaction of the business
10 of the court; and, in transacting the business of the court and in performing their duties and
11 responsibilities, they shall share, divide, and allocate the work and duties to be performed by
12 each. In the event of a disagreement among the judges in respect hereof, the decision of the
13 senior judge in point of service, who shall be known as the chief judge, shall be controlling.
14 The four judges of the superior courts of the Cherokee Judicial Circuit shall have and are
15 clothed with full power, authority, and discretion to determine from time to time and term
16 to term the manner of calling the dockets, fixing the calendars, and order of business in such
17 courts. They may assign to one of such judges the hearing of trials by jury for a term and the
18 hearing of all other matters not requiring a trial by jury to the other judges, and they may
19 rotate such order of business at the next term. They may conduct trials by jury at the same
20 time in the same county or otherwise within such circuit, or they may hear chambers business
21 and motion business at the same time at any place within such circuit. They may provide in
22 all respects for holding the superior courts of such circuit so as to facilitate the hearing and
23 determination of all the business of such courts at any time pending and ready for trial or
24 hearing. In all such matters relating to the fixing, arranging for, and disposing of the business
25 of such courts and making appointments as authorized by law where the judges thereof
26 cannot agree or shall differ, the opinion or order of the chief judge as provided for in this Act
27 shall control.

28 **SECTION 2-7.**

29 The drawing and impaneling of all jurors, whether grand, petit, or special, may be by any of
30 the judges of the superior court of such circuit; and they, or any one of them, shall have full
31 power and authority to draw and impanel jurors for service in such courts so as to have jurors
32 for the trial of cases before any of such judges separately or before each of them at the same
33 time.

SECTION 2-8.

The four judges of the Cherokee Judicial Circuit shall be authorized and empowered to appoint an additional court reporter for such circuit, whose compensation shall be as now or hereafter provided by law.

SECTION 2-9.

All writs, processes, orders, subpoenas, and any other official paper issuing out of the superior courts of the Cherokee Judicial Circuit may bear teste in the name of any judge of the Cherokee Judicial Circuit and, when issued by and in the name of any judge of such circuit, shall be fully valid and may be heard and determined before the same or any other judge of such circuit. Any judge of such circuit may preside over any case therein and perform any official act as judge thereof.

SECTION 2-10.

Upon request of any judge of the circuit, the governing authorities of the counties comprising the Cherokee Judicial Circuit are authorized to furnish the judges of such circuit with suitable courtrooms and facilities, office space, telephones, furniture, office equipment, supplies, and such personnel as may be considered necessary by the court to the proper function of the court. All of the expenditures authorized in this Act are declared to be an expense of the court and payable out of the county treasury as such.

SECTION 2-11.

Nothing in this Act shall be deemed to limit or restrict the inherent powers, duties, and responsibilities of superior court judges provided by the Constitution and statutes of the State of Georgia.

Part III**SECTION 3-1.**

One additional judge of the superior courts is added to the Flint Judicial Circuit, thereby increasing to three the number of judges of said circuit.

SECTION 3-2.

The additional judge provided for in this Act shall be appointed by the Governor for an initial term of office beginning on July 1, 2005, and ending on December 31, 2006, and until a successor is elected and qualified. A successor shall be elected in the manner provided by law for the election of judges of the superior courts of this state at the nonpartisan judicial

1 election in 2006, for a term of four years beginning on the first day of January, 2007, and
2 until a successor is elected and qualified. Future successors shall be elected at the nonpartisan
3 judicial election each four years after such election for terms of four years and until their
4 successors are elected and qualified. Successors shall take office on the first day of January
5 following the date of their election.

6 **SECTION 3-3.**

7 Every person who shall offer for nomination and election as one of the judges of the superior
8 courts of the Flint Judicial Circuit of Georgia shall designate with the proper authority in all
9 general elections the specific judgeship for which he or she is offering as a candidate by
10 naming the incumbent judge whom he or she desires to succeed, and thereupon he or she
11 shall be qualified, if otherwise qualified to offer as a candidate for said specific judgeship and
12 no other. In the event there is no incumbent judge in the place for which such person desires
13 to offer, the candidate shall qualify by announcing his or her intention to offer as a candidate
14 for the office for which there is no incumbent.

15 **SECTION 3-4.**

16 The additional judge of the superior courts of the Flint Judicial Circuit of Georgia shall have
17 and may exercise all powers, duties, dignities, jurisdiction, privileges, and immunities of the
18 present judges of the superior courts of this state. Any of the judges of said courts may
19 preside over any cause, whether in their own or in other circuits, and perform any official act
20 as judge thereof, including sitting on appellate courts as provided by law.

21 **SECTION 3-5.**

22 The judge of said courts senior in length of continuous service as a superior court judge shall
23 be the chief judge of the Flint Judicial Circuit. Such chief judge shall be responsible for the
24 administration and the expeditious disposition of the business of the superior courts of said
25 circuit, both civil and criminal, and shall have power to make such rules as he or she shall
26 deem necessary or proper for such purpose but not in conflict with the general laws of this
27 state, which rules, when approved by said chief judge and filed in the offices of each of the
28 clerks of the superior courts of the counties comprising the Flint Judicial Circuit, shall be
29 binding upon the other judge or judges of said circuit. The chief judge shall be vested with
30 the power to make all appointments whenever the law provides for the superior court judge
31 to make appointments. Such chief judge may by published rule, or from time to time by
32 order, allocate the jurisdiction and powers of the superior courts of said circuit and the duties
33 of the judges thereof; may assign to the other judges of said circuit such of the business of
34 said circuit as the chief judge shall deem appropriate; may make and publish calendars, both

1 civil and criminal; may require reports from the clerks of court of said circuit and from other
2 judges of said circuit relative to business of the courts; and generally shall supervise and
3 direct the disposition of all business, both civil and criminal, of said courts.

4 **SECTION 3-6.**

5 (a) The compensation, salary, and expense allowance of said additional judge of the superior
6 courts of the Flint Judicial Circuit shall be the same as that provided by the State of Georgia
7 for other judges of the superior courts of Georgia.

8 (b) Said additional judge shall receive a local salary supplement in the same amount
9 heretofore prescribed by law for the other judges of the superior courts of the Flint Judicial
10 Circuit; and such supplement shall be paid from funds of the counties comprising the Flint
11 Judicial Circuit in the same proportions heretofore prescribed by law for the supplements of
12 the other judges of the superior courts of the Flint Judicial Circuit.

13 **SECTION 3-7.**

14 All writs, processes, orders, subpoenas, and other official papers issuing out of the superior
15 courts of the Flint Judicial Circuit may bear teste in the name of any judge of said Flint
16 Judicial Circuit. When issued by and in the name of any judge of said circuit, they shall be
17 fully valid and may be determined before any judge in the regular course of business of said
18 courts. Any judge of said courts may preside over any cause therein and perform any official
19 act as judge thereof.

20 **SECTION 3-8.**

21 The drawing and impaneling of all jurors, whether grand, petit, or special, may be by any of
22 the judges of the superior courts of the circuit. Any of said judges shall have full power and
23 authority to draw and empanel jurors for service in said courts so as to have jurors for the
24 trial of cases before any of said judges separately or before each of them at the same time.

25 **SECTION 3-9.**

26 The chief judge of the Flint Judicial Circuit shall be authorized to employ an additional court
27 reporter for such duties and for such compensation as the chief judge sees fit up to and
28 including, but not exceeding, the remuneration of the present court reporters of the Flint
29 Judicial Circuit as the same is now fixed or may hereafter be fixed by law. In the employment
30 of said court reporter, the additional judge shall have the right to select and approve the
31 individual to fill said position, and said court reporter shall be assigned to the additional
32 judge. However, the chief judge, under the provisions of Section 5 of this Act, shall be

1 authorized to assign temporarily said court reporter to other duties in order to equalize the
2 workload and when the business of the courts shall require the same.

3 **SECTION 3-10.**

4 Upon request of the chief judge, the board of commissioners of each county comprising the
5 Flint Judicial Circuit is authorized to furnish all judges of said courts with suitable
6 courtrooms and facilities, office space, telephone, furniture, office equipment, supplies, and
7 such personnel as may be considered necessary to the proper functioning of the courts. All
8 of the expenditures authorized in this Act are declared to be an expense of the court and
9 payable out of each county treasury as such.

10 **SECTION 3-11.**

11 Nothing enumerated in this Act shall be deemed to limit or restrict the inherent powers,
12 duties, and responsibilities of superior court judges provided by the Constitution and statutes
13 of the State of Georgia.

14 **Part IV**

15 **SECTION 4-1.**

16 The additional judge of the superior court of the Gwinnett Judicial Circuit shall be appointed
17 by the Governor for a term beginning July 1, 2005, and expiring December 31, 2006, and
18 until a successor is elected and qualified. At the nonpartisan judicial election to be held in
19 2006, there shall be elected a successor to the first additional judge appointed as provided for
20 above, and he or she shall take office on the first day of January, 2007, and serve for a term
21 of office of four years and until a successor is duly elected and qualified. All subsequent
22 successors to such judge shall be elected at the nonpartisan judicial election conducted in the
23 year in which the term of office shall expire for a term of four years and until his or her
24 successor is duly elected and qualified. Said elections shall be held and conducted as is now
25 or may hereafter be provided by law for the election of judges of the superior courts of the
26 State of Georgia.

27 **SECTION 4-2.**

28 The additional judge of the superior court of the Gwinnett Judicial Circuit shall have and may
29 exercise all powers, duties, dignities, jurisdiction, privileges, and immunities of the present
30 judges of the superior courts of this state. Any of the judges of said court may preside over
31 any cause, whether in their own or in other circuits, and perform any official act as judge
32 thereof, including sitting on appellate courts as provided by law.

SECTION 4-3.

The compensation, salary, and contingent expense allowance of said additional judge of the superior court of the Gwinnett Judicial Circuit shall be the same as that of other judges of the superior courts of Georgia. The additional judge shall also be paid a county supplement by the county comprising said circuit in the same manner and to the same extent as the present superior court judges of said circuit are paid.

SECTION 4-4.

All writs, processes, orders, subpoenas, and any other official paper issuing out of the superior court of the Gwinnett Judicial Circuit may bear teste in the name of any judge of said circuit and, when issued by and in the name of any of said judges of said circuit, shall be fully valid and may be held and determined before any judge of said circuit.

SECTION 4-5.

Upon and after qualification of the additional judge of the superior court of the Gwinnett Judicial Circuit, the nine judges of said court shall be authorized to adopt, promulgate, amend, and enforce such rules of procedure in consonance with the Constitution and laws of the State of Georgia as they deem suitable and proper for the effective transaction of the business of the court; and, in transacting the business of the court and in performing their duties and responsibilities, they shall divide and allocate the work and duties to be performed by each. In the event of a disagreement between or among said judges affecting the duties and responsibilities of the judges of the superior court of the Gwinnett Judicial Circuit, the decision of the senior judge in term of current continuous, uninterrupted service shall be controlling.

SECTION 4-6.

The judge of said court, senior in term of current continuous, uninterrupted service as a judge of the superior court, shall be the presiding judge of said court in whom shall be vested the power to make all appointments whenever the law provides for the superior court judge to make appointments, except as herein provided.

SECTION 4-7.

The drawing and impaneling of all jurors, whether grand, petit, or special, may be by any of the judges of the superior court of said circuit; and any such judge of the superior court of said circuit shall have full power and authority to draw and impanel jurors for service in said court so as to have jurors for the trial of cases before each of said judges separately or before each of them at the same time.

SECTION 4-8.

The nine judges of the superior court of the Gwinnett Judicial Circuit shall be authorized and empowered to employ an additional court reporter for such duties and for such compensation as such judges see fit, up to and including, but not exceeding, the remuneration of the present court reporters of the Gwinnett Judicial Circuit as the same is now fixed or may hereafter be fixed.

SECTION 4-9.

The governing authority of the county comprising the Gwinnett Judicial Circuit is fully authorized and empowered to provide suitable courtrooms, jury rooms, and chambers for the nine judges of the superior court of the Gwinnett Judicial Circuit upon the recommendation of said judges.

Part V**SECTION 5-1.**

One additional judge of the superior courts is added to the Southern Judicial Circuit, thereby increasing to five the number of judges of said circuit.

SECTION 5-2.

Said additional judge shall be appointed by the Governor for a term beginning July 1, 2005, and continuing through December 31, 2006, and until a successor is elected and qualified; such judge shall take office on the date of his or her appointment by the Governor. A successor shall be elected in the manner provided by law for the election of judges of the superior courts of this state at the nonpartisan judicial election in 2006, for a term of four years beginning on January 1, 2007, and until a successor is elected and qualified. Future successors shall be elected at the nonpartisan judicial election each four years after such election for terms of four years and until their successors are elected and qualified. They shall take office on the first day of January following the date of the election.

SECTION 5-3.

The additional judge of the superior courts of the Southern Judicial Circuit of Georgia shall have and may exercise all powers, duties, dignity, jurisdiction, privileges, and immunities of the present judges of the superior courts of this state. Any of the judges of the Southern Judicial Circuit may preside over any cause, whether in their own or in other circuits, and perform any official act as judge thereof, including sitting on appellate courts as provided by law.

SECTION 5-4.

The qualifications of such additional judge and his or her successors and his or her compensation, salary, and expense allowance from the State of Georgia and from the counties of the superior courts of the Southern Judicial Circuit shall be the same as are now provided by law for all other superior court judges. The provisions, if any, enacted for the supplementation by the counties of said circuit of the salary of the judges of the superior courts of the Southern Judicial Circuit shall also be applicable to the additional judge provided for by this Act.

SECTION 5-5.

All writs and processes in the superior courts of the Southern Judicial Circuit shall be returnable to the terms of said superior courts as they are now fixed and provided by law, or as they may hereafter be fixed or determined by law, and all terms of said courts shall be held in the same manner as though there were but one judge, it being the intent and purpose of this Act to provide five judges equal in jurisdiction and authority to attend and perform the functions, powers, and duties of the judges of said superior courts and to direct and conduct all hearings and trials in said courts.

SECTION 5-6.

Upon and after qualification of the additional judge of the superior court of the Southern Judicial Circuit, the five judges of said court may adopt, promulgate, amend, and enforce such rules of practice and procedure in consonance with the Constitution and laws of the State of Georgia as they deem suitable and proper for the effective transaction of the business of the court; and, in transacting the business of the court and in performing their duties and responsibilities, they shall share, divide, and allocate the work and duties to be performed by each. In the event of a disagreement among the judges in respect hereof, the majority shall rule, or failing a majority, the decision of the senior judge in point of service, who shall be known as the chief judge, shall be controlling.

SECTION 5-7.

The drawing and impaneling of all jurors, whether grand, petit, or special, may be by any of the judges of the superior court of said circuit; and they, or any one of them, shall have full power and authority to draw and impanel jurors for service in said courts so as to have jurors for the trial of cases before any of said judges separately or before each of them at the same time.

SECTION 5-8.

The five judges of the Southern Judicial Circuit shall be authorized and empowered to appoint an additional court reporter for such circuit, whose compensation shall be as now or hereafter provided by law.

SECTION 5-9.

All writs, processes, orders, subpoenas, and any other official paper issuing out of the superior courts of the Southern Judicial Circuit may bear teste in the name of any judge of the Southern Judicial Circuit, and when issued by and in the name of any judge of said circuit shall be fully valid and may be heard and determined before the same or any other judge of said circuit. Any judge of said circuit may preside over any case therein and perform any official act as judge thereof.

SECTION 5-10.

Upon request of any judge of the circuit, the governing authorities of the counties comprising the Southern Judicial Circuit are authorized to furnish the judges of said circuit with suitable courtrooms and facilities, office space, telephones, furniture, office equipment, supplies, and such personnel as may be considered necessary by the court to the proper function of the court. All of the expenditures authorized in this Act are declared to be an expense of the court and payable out of the county treasury as such.

SECTION 5-11.

Nothing in this Act shall be deemed to limit or restrict the inherent powers, duties, and responsibilities of superior court judges provided by the Constitution and statutes of the State of Georgia.

Part VI**SECTION 6-1.**

(a) For purposes of making the initial appointment of the judge to fill the superior court judgeships created by this Act, this Act shall become effective upon its approval by the Governor or its becoming law without such approval.

(b) For all other purposes, this Act shall become effective July 1, 2005.

SECTION 6-2.

All laws and parts of laws in conflict with this Act are repealed.